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Viewing cable 06BEIRUT1001, MGLE01: MINISTER OF JUSTICE EXPLAINS DECISION ON

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Understanding cables

Every cable message consists of three parts:

- The top box shows each cables unique reference number, when and by whom it originally was sent, and what its initial classification was.
- The middle box contains the header information that is associated with the cable. It includes information about the receiver(s) as well as a general subject.
- The bottom box presents the body of the cable. The opening can contain a more specific subject, references to other cables ([browse by origin](#) to find them) or additional comment. This is followed by the main contents of the cable: a summary, a collection of specific topics and a comment section.

To understand the justification used for the classification of each cable, please use this [WikiSource](#) article as reference.

Discussing cables

If you find meaningful or important information in a cable, please link directly to its unique reference number. Linking to a specific paragraph in the body of a cable is also possible by copying the appropriate link (to be found at the paragraph symbol). Please mark messages for social networking services like Twitter with the hash tags **#cablegate** and a hash containing the reference ID e.g. **#06BEIRUT1001**.

Reference ID	Created	Released	Classification	Origin
06BEIRUT1001	2006-03-30 05:37	2011-08-30 01:44	CONFIDENTIAL	Embassy Beirut

Appears in these articles:

<http://www.al-akhbar.com/node/16545>
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TO RUEAWJA/DEPT OF JUSTICE WASHDC IMMEDIATE
RUEHC/SECSTATE WASHDC IMMEDIATE 2823
INFO RUEHRL/AMEMBASSY BERLIN PRIORITY 0134
RHEHNSC/NSC WASHDC PRIORITY
RHMFIISS/CDR USCENTCOM MACDILL AFB FL PRIORITY

C O N F I D E N T I A L BEIRUT 001001

SIPDIS

SIPDIS

NSC FOR ABRAMS/DORAN/WERNER/SINGH

E.O. 12958: DECL: 03/23/2016
TAGS: [LE](#) [PGOV](#) [PREL](#) [PTER](#)
SUBJECT: MGLE01: MINISTER OF JUSTICE EXPLAINS DECISION ON
HAMADEI EXTRADITION

REF: A. SECSTATE 12817

[¶](#)B. BEIRUT 00286

Classified By: Ambassador Jeffrey Feltman. Reason: Section 1.4 (b).

[¶](#)1. (C) On March 22, Minister of Justice Charles Rizk and Judge Chukri Sadr discussed with the Ambassador the MOJ's deliberations regarding the U.S. extradition request for the four terrorists -- Mohammad Ali Hamadei, Hasan Izz-al-Din, Ali Atwa, and Imad Mughnayih -- responsible for the hijacking of TWA 847. Passing a non-paper prepared by Sadr and Prosecutor General Said Mirza, Rizk said that the MOJ had no choice but to advise the GOL to deny the USG request. But, Rizk emphasized, he was providing us the legal rationale before passing it to the MFA. "Please demolish our arguments," Rizk said, expressing deep sympathy for the victims of the hijacking. "Show us how we can comply with your request." Rizk said that he would postpone forwarding his ministry's findings to the MFA for now, in hopes that the USG would come back to him with questions and objections.

[¶](#)2. (C) Sadr said that the principal legal obstacle is the

penal code's prohibition against the extradition of Lebanese citizens. This was a "sacred principle" in Lebanon, and an especially sensitive issue since both Israel and Syria had seized Lebanese citizens and incarcerated them abroad. Given this history, no cabinet would violate Lebanese law and custom by extraditing Lebanese citizens. The Ambassador asked whether there was any precedents for rendering Lebanese citizens to another country under a form that would not be defined legally as extradition. Sadr said that there may be some examples under a 1950 protocol with Syria, but the Syrian case is special and shouldn't serve as a precedent for others.

¶13. (C) Unprompted, Sadr said that he had also considered, as an alternative, trials in Lebanon for the four fugitive felons. He had ruled out this option as well, because of the ten-year statute of limitations in Lebanese law. This ten-year statute of limitations also hindered further the GOL's ability to comply with the USG extradition request. Emphasizing that he was not a lawyer, the Ambassador asked whether a statute of limitations really applied when it came to crimes that would fall under international air piracy and terrorism protocols signed by Lebanon and when there outstanding interpol notices on which Lebanon had never acted. Neither Sadr or Rizk knew the answer.

¶14. (C) Sadr also noted the USG proposal to Lebanon to sign an Article 98 agreement on a reciprocal basis. In legal reasoning that escaped this non-lawyer Ambassador's understanding, Sadr argued that the philosophy behind the Article 98 proposal was contrary to the USG extradition request. The Ambassador responded that the Article 98 proposal was designed to ensure that neither Lebanon nor the United States would render citizens of the other state to a third party without the agreement of the home state. It did not, in the Ambassador's mind, contradict the extradition request. Moreover, as the GOL and USG have not concluded an Article 98 agreement in any case, it appears entirely irrelevant. (Both Sadr and Rizk expressed support for an Article 98 agreement, a topic we will pursue separately.)

MINISTRY'S LEGAL ARGUMENTS

¶15. (SBU) Justice Sadr's written analysis follows:

Begin Embassy informal translation:

Main outcomes of the study by the Prosecutor General of Lebanon and the Legal Department of the Ministry of Justice, as drafted by Justice Chukri Sader, Head of the Council of Legislation and Advice:

In the absence of any extradition agreement between Lebanon and the United States of America, Article 30, and the following, must be implemented taking into account the presence of the fundamental conditions for extradition.

The crime of hijacking on TWA flight 847 was committed by Lebanese citizens, therefore, it falls under the jurisdiction of Lebanese law.

The international agreement mentioned in the US Bill of Indictment does not reject the legal jurisdiction of the (accused persons') country of origin, especially when the (accused persons) are present on its territory.

With regard to the theory of reciprocity, the United States of America does not allow its citizens to be prosecuted in front of foreign courts, and insists that such prosecutions occur before U.S. courts.

In addition, the United States of America suggested to Lebanon that it sign a bilateral convention whereby both sides would refuse the extradition of their citizens to the International Criminal Court, and recognize the competence of the US courts for judging US citizens and the competence of

Lebanese courts for judging Lebanese citizens. Although this convention has not been signed, it reflects a principle in international law that each country (should) judge its citizens for crimes they commit in foreign territories, applying the law of the country where the crimes took place.

Since the persons subject to the request of this extradition have already been prosecuted since the 1985 TWA hijacking, the prosecution has exceeded the 10-year prescription (statute of limitations), as defined by Article 10 of Lebanon's penal code.

The competence of the courts to judge the crimes of the Lebanese hijackers is given (only) to Lebanese courts, as defined by Article 20 of Lebanon's penal code.

Article 32 of Lebanon's penal code does not permit extradition for crimes related to Lebanese personal competence, as described in Articles 15, 16, 17, 18, 19 and 21 of the Lebanese penal code.

Since the conditions requested for the extradition of the four Lebanese citizens mentioned above have not been fulfilled, the Lebanese authorities cannot agree to the extradition as requested by the US authorities.

End Embassy translation.

COMMENT

¶6. (C) Rizk and Sadr were at pains to demonstrate that they are not rejecting the USG extradition request out of hand but are taking the issue seriously. We are not lawyers, but we believe that the political obstacles (with the four terrorists being Hizballah members) are stronger than the legal arguments. Rizk is trying to be helpful, in sharing with us the MOJ's thinking before providing it to the MFA for formal transmission to us. Before the MOJ arguments evolve into a formal GOL denial of our extradition requests, we would welcome Washington's views on how to refute the GOL legal arguments. For example, is it true that the USG never extradites its citizens? We believe that the single most difficult legal issue to overcome is the legal prohibition on extraditing Lebanese citizens. If there are ways to use the international conventions Lebanon has signed to get around this and the statute of limitations question, we would like to make the case.

FELTMAN